

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 05-40949

MARK JAMES GABBARD, and
ANNA-MARIE GABBARD,

Chapter 7

Debtors.

Judge Thomas J. Tucker

ORDER DENYING DEBTORS' MOTION TO REOPEN BANKRUPTCY CASE

On January 12, 2005, Debtors filed a voluntary petition for relief under Chapter 7, initiating this case. On April 27, 2005, the Court entered an order granting Debtors a discharge under 11 U.S.C. § 727. On December 7, 2005, the bankruptcy case was closed.

More than four years later, on March 31, 2010, Debtors filed a document entitled, "Debtors' Motion To Reopen Chapter 7 Case" (Docket # 11, the "Motion"). The Motion states, in relevant part: "Debtors request to reopen the Chapter 7 case for the sole purpose of filing the reaffirmation agreement for Chase Home Loans." (Mot. to Reopen at ¶ 6.) On April 21, 2010, Debtors filed a Certification of Non-Response, indicating that no one had objected to the Motion.

Under 11 U.S.C. § 524(c)(1), a reaffirmation agreement is not enforceable unless it "was made before the granting of the discharge under section 727." Because the Motion indicates that Debtors and Chase Home Loans did not make a reaffirmation agreement before Debtors were granted a discharge on April 27, 2005, the Motion fails to demonstrate that there can be an enforceable reaffirmation agreement between these parties in this case.¹ For this reason, no

¹ The Motion indicates that a reaffirmation agreement between Debtors and Chase Home Loans has not yet been made. The Motion states, in relevant part: "Counsel for Debtors have contacted personnel for Chase Home Loans, who stated they will supply counsel with a reaffirmation agreement once the bankruptcy case is re-opened." (Mot. to Reopen at ¶ 7.)

